

Chapter: Compensation Review Procedures

Section: Employers Paying Member Contributions

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Impact to Page Numbers: No

Summary: Circular Letter #200-019-10 revised the language in the resolution to Tax Defer Member Paid Contributions – IRC 414(h)(2).

Resolution to Tax Defer Member Paid Contributions – IRC 414(h)(2)

“Sample E”

~~Resolution for Employer Pick-Up –IRC 414(h)(2)~~

WHEREAS, the governing body of the **[NAME OF AGENCY]** has the authority to implement the provisions of section 414(h)(2) of the Internal Revenue Code (IRC); and

~~WHEREAS, the Board of Administration of the California Public Employees' Retirement System adopted its resolution regarding section 414(h)(2) IRC on September 18, 1985; and~~

~~WHEREAS, the Internal Revenue Service has stated in December 1985, that the implementation of the provisions of section 414(h)(2) IRC pursuant to the Resolution of the Board of Administration would satisfy the legal requirements of section 414(h)(2) IRC; and~~

WHEREAS, the **[NAME OF AGENCY]** has determined that even though the implementation of the provisions of section 414(h)(2) IRC is not required by law, the tax benefit offered by section 414(h)(2) IRC should be provided to its employees **[ALL EMPLOYEES, OR ALL EMPLOYEES IN A RECOGNIZED GROUP OR CLASS OF EMPLOYMENT]** who are members of the California Public Employees' Retirement System:

NOW, THEREFORE, BE IT RESOLVED:

- I. That the **[NAME OF AGENCY]** will implement the provisions of section 414(h)(2) Internal Revenue Code by making employee contributions pursuant to California Government Code Section 20691 to the California Public Employees' Retirement System on behalf of **all** its employees **or all its employees in a recognized group or class of employment** who are members of the California Public Employees Retirement System.
“Employee contributions” shall mean those contributions to the California Public Employees' Retirement System which are deducted from the salary of employees and are credited to individual employee's accounts pursuant

to California Government Code Section 20691.

- II. That the contributions made by the [NAME OF AGENCY] to the California Public Employees' Retirement System, although designated as employee contributions, are being paid by the [NAME OF AGENCY] in lieu of contributions by the employees who are members of the California Public Employees' Retirement System.
- III. That employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the [NAME OF AGENCY] to the California Public Employees' Retirement System.
- IV. That the [NAME OF AGENCY] shall pay to the California Public Employees' Retirement System the contributions designated as employee contributions from the same source of funds as used in paying salary.
- V. That the amount of the contributions designated as employee contributions and paid by the [NAME OF AGENCY] to the California Public Employees' Retirement System on behalf of an employee shall be the entire contribution required of the employee by the California Public Employees' Retirement Law (California Government Code Sections 20000, et seq.).
- VI. That the contributions designated as employee contributions made by [NAME OF AGENCY] to the California Public Employees' Retirement System shall be treated for all purposes, other than taxation, in the same way that member contributions are treated by the California Public Employees' Retirement System.

PASSED AND ADOPTED by the governing body of the _____
~~[EMPLOYER]~~ **[NAME OF AGENCY]** this day of [DATE], [YEAR].

BY

(Signature of Official)

(Title of Official)

RETURN ADDRESS:

FOR CALPERS USE ONLY

RESOLUTION TO TAX DEFER MEMBER PAID CONTRIBUTIONS – IRC 414(h)(2)

Approved by: _____

Title: _____